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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,228	12/19/2005	Lars Ake Naslund	027651-286	6147
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EXAMINER FAYYAZ, NASHIMIYA SAQIB				
ART UNIT 2856		PAPER NUMBER		
NOTIFICATION DATE 10/15/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

### Office Action Summary

**Application No.**

10/561,228

**Applicant(s)**

NASLUND ET AL.

**Examiner**

Nashmiya S. Fayyaz

**Art Unit**

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-12, 14, 15 and 20-26 is/are pending in the application.
- 4a) Of the above claim(s) 21-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-12, 14, 15 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. As pointed out by the Applicant, this application was filed as a U.S. national stage application, therefore the restriction requirement of 8/5/09 is hereby replaced with the following **lack of unity**.

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-4, 6-12, 14-15 and 20, drawn to a sensor holder with a first and second component.

Group II, claim(s) 21-26, drawn to a sensor holder having a grooved surface and a clamping surface.

3. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: a sensor holder with a first component being adapted to contact said rectangular-shaped sensor and a second component with a first sealing surface and a throughgoing opening is not the same as or equivalent to a sensor holder with a

first component with first portion having a grooved surface and a second portion of the first component having a clamping surface.

4. Since the lack of unity groupings are the same as the restriction and Applicant has elected Group I in paper of 9/08/09 an action on the merits follows.
5. Claims 21-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 9/8/09.
6. Applicant's election with traverse of group I in the reply filed on 9/8/09 is acknowledged. The traversal is on the ground(s) that the restriction should have been a lack of unity. This is not found persuasive because the restriction has been rewritten as a lack of unity as above and the proper conditions have been met.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 1-4, 6-12, 14, 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaguchi et al-US Patent # 5,688,390. As to claims 1 and 20, Yamaguchi et al disclose an oxygen concentration sensor including a rectangular/polygon shaped sensor (sensor element 3) in communication with housing (10), a first component (pad 14) adapted for holding the sensor along with support 15, a second component with a first surface (taper 42), and a throughgoing opening (at seat 41) with a rectangular shaped envelope surface at the portion of sensor element 3 below the flange portion, where the second component is tightly sealed to the surface (seat 11 of housing 10) via packing 52, see figs. 1-8 and col. 3, lines 17 et seq. Further, it is noted that taper 42 is not indicated as a *sealing* surface. However, since there is a packing between the taper and housing, it would have been obvious to one of ordinary skill in the art at the time of the invention to have referred to these surfaces as "sealing surfaces" since there is a packing in between which obviously provides some sealing. As

to claim 2, note the portion of the insulator around the flange is frustoconical where the compressible material of the insulator could be considered the first sealing means. As to claim 3, note packer 52 and further inclusion of a second packer ring as the first sealing means would have been obvious to one of ordinary skill in the art at the time of the invention to have included as added means of sealing. As to claim 6, from the depictions given, it appears that the opening in the housing is circular in form. As to claim 7, note that the packing appears to be in a groove, note fig. 7. As to claims 8 and 9, note that the center of the pad 14 can be considered a rectangular groove within which the rectangular sensor is received. As to claim 10, note the powder 13 and supporter 15. As to claims 11 and 12, note the supporter 15. As to claim 14, note part of the opening in insulator 4 is conical around the flange 30. As to claim 15, since the packer 52 is depicted on both sides, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used an o-ring to seal on all sides of the housing.

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1-4, 6-12, 14, 15 and 20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nashmiya S. Fayyaz whose telephone

number is 571-272-2192. The examiner can normally be reached on Tuesdays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/N. S. F./

Examiner, Art Unit 2856

/Hezron Williams/

Supervisory Patent Examiner, Art Unit 2856